

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q82363

Angelo MASON

Appln. No.: 10/500,636

Group Art Unit: 3728

Confirmation No.: 3018

Examiner: Jila M. Mohandesi

Filed: July 2, 2004

For: FOOT-WEARS, NAMELY SPORT FOOT-WEARS, AND PRODUCTION METHOD THEREOF

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES REQUIREMENT

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

This is in response to the Office Action mailed December 6, 2007, in which the Examiner set a shortened statutory period for response by one month, making a reply due on or before January 7, 2008 (January 6, 2008. is a Sunday).

In the Action, the Examiner has required restriction under 35 U.S.C. § 121 to one of the following:

| | |
|-----------|---|
| Group I: | Claims 1-12, drawn to a sport foot-wear; or |
| Group II: | Claims 13-17, drawn to a method for producing a footwear. |

Applicant hereby elects Group I covered by claims 1-12, without traverse.

Additionally, the Examiner contends that the claims are directed to more than one species of the generic invention. According to the Examiner, these species are deemed to lack unity of the invention and are listed as follows:

Species I: Figures 5 and 6
Species II: Figures 7 and 8
Species III: Figures 9 and 10; or
Species IV: Figures 11 and 12.

The claims are deemed to correspond to the species listed above as follows:

Species I: Claims 1-4;
Species II: Claims 5 and 6
Species III: Claim 7
Species IV: Claim 8.

As a preliminary matter, Applicant submits that the Examiner's analysis is incorrect. Specifically, the species the Examiner identified and the related claim correspondences are unsound:

- i) the Examiner did not mention the embodiment of figures 2-4;
- ii) inclusion of the embodiments of figures 5-6 into Species I and figures 7-8 into Species II is not correct: these two embodiments differ from each other merely by the number of "stretches" 4D at the two end regions of insert 4; the overall constructions of the insert 4 of both embodiments is the same;
- iii) claim 4 does not correspond to Species I (as identified by the Examiner in figures 5-6): claim 4 specifically claims a "second insert", whereas figures 5-6 show an embodiment including a single insert (the "first insert" of claims 1-3);

iv) claims 5-6 do not correspond to Species II (as identified by the Examiner in figures 7-8); claims 5-6 also specifically claim the above second insert, whereas figures 7-8 relate to an embodiment including a single insert (the "first insert" of claims 1-3);

v) claim 7 does not correspond to Species III (as identified by the Examiner in figures 9-10); claim 7 requires a closed development for the insert: inserts having a closed development (i.e., with no ends) are only shown in figures 11-12, which the Examiner identified as Species IV;

vi) claim 8 does not correspond only to Species IV (as identified by the Examiner in figures 11-12): claim 8 states that an insert have bends at positions corresponding to studs of the sole of the shoe; all species as identified by the Examiner have such a feature;

vii) the Examiner did not mention claims 9-12.

Thus, Applicant respectfully requests that the Examiner reconsider the election of species requirement since it is not accurate.

It should be noted that:

As mentioned, Species I and II of the Examiner should actually be a single species.

Concerning the claims:

Claims 1 and 9-11 are generic to all species;

Claims 2-3 belong to Species I (figures 5-6) and Species II (figures 7-8);

Claims 4-6 belong to Species III (figures 9-10) and Species IV (figures 11-12);

Claim 7 belong to Species IV (figures 11-12);

Claim 8 belongs to Species I, II, III, since figures 5-10 show inserts having bends at the respective ends (on the other hand, the insert of Species IV - figures 11-12 - has no ends);

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION OF SPECIES
REQUIREMENT

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Claims 9-11 are generic: they apply to all embodiments.

If the Examiner maintains the election of species requirement, Applicant elects Species I and claims 1-3, 8 and 9-11, without traverse.

In view of the foregoing, Applicant believes that a complete examination on the merits is now in order. Early and favorable action is respectfully requested.

If the Examiner believes that a personal or telephone interview would be helpful, she is kindly requested to contact the undersigned at the local telephone number listed below.

Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this case, and any required fee, except for the Issue Fee, for such extension is to be charged to Deposit Account No. 19-4880.

Respectfully submitted,
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23373

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